

Message Text

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ORIGIN SS-25

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APPROVED BY NEA :ALATHERTON

L/PM:JHMICHEL

PM:GSVEST

S/S - MR. ORTIZ

S - MR. BARBIAN

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FM SECSTATE WASHDC

TO USDEL SECRETARY IMMEDIATE

C O N F I D E N T I A L STATE 179817 TOSEC 080182

EXDIS

E.O. 11652:GDS

TAGS:MILI, PFOR, LY

SUBJECT: ACTION MEMORANDUM - NORTHROP-PAGE AIR DEFENSE
SYSTEM FOR LIBYA (S/S NO.7515431)
FOR SECRETARY FROM ATHERTON

1. ON JUNE 26, 1974, AFTER ASCERTAINING SADAT HAD NO
OBJECTION, DEPARTMENT APPROVED REQUEST BY NORTHROP TO ENTER
INTO CONTRACT FOR SALE OF \$200 MILLION AIR DEFENSE SYSTEM TO
LARG. THIS FOLLOWED INTENSE AND PROLONGED CAMPAIGN BY
NORTHROP AND INTERVENTIONS BY SEVERAL MEMBERS OF CONGRESS,
INCLUDING SENATOR GOLDWATER, URGING APPROVAL. AT THAT TIME
WE GAVE NORTHROP LETTER STATING DEPARTMENT APPROVED PROPOSED
CONTRACTUAL RELATIONSHIP AND EXPRESSING INTENTION TO ISSUE
LICENSES FOR EXPORT OF ITEMS NECESSARY TO CARRY OUT PROPOSED
CONTRACT.

2. AFTER YEAR OF NEGOTIATIONS BETWEEN NORTHROP AND LARG,
DURING WHICH LIBYANS TRIED UNSUCCESSFULLY TO LINK SIGNING
CONFIDENTIAL

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OF CONTRACT WITH NORTHROP TO USG'S RELEASE OF THE EIGHT
LARG-OWNED C-130S FOR WHICH WE ARE WITHHOLDING EXPORT
LICENSES, LARG, ON JUNE 24, UNEXPECTEDLY CONCLUDED CONTRACT
WITH FIRM FOR FIRST PHASE OF AIR DEFENSE SYSTEM IN AMOUNT OF

\$16 MILLION. NORTHROP-PAGE HOPES TO BID ON SECOND AND THIRD PHASES AND BELIEVE THEY HAVE GOOD CHANCE TO WIN THESE LARGER CONTRACTS IF LIBYANS SATISFIED WITH THEIR PERFORMANCE ON FIRST PHASE.

3. IN INTERVENING YEAR THERE HAS BEEN SERIOUS DETERIORATION IN LIBYAN-EGYPTIAN RELATIONS AND INTENSIFICATION OF LARG'S MILITANT OPPOSITION TO MIDDLE EAST PEACE EFFORTS. WE BELIEVE LARG WAS MAJOR INSTIGATOR OF RECENT TROUBLES IN LEBANON AND LARG IS ACTIVE RALLYING POINT AND FINANCIAL SUPPORTER OF PALESTINIAN REJECTIONIST GROUPS. LARG ALSO CONCLUDED ARMS DEAL WITH SOVIETS FOR QUANTITIES AND TYPES OF MATERIEL FAR IN EXCESS OF ITS OWN ABSORPTIVE CAPACITY AND WIDELY ASSUMED TO BE DESTINED FOR ARAB CONFRONTATION STATES IN ANY NEW CONFLICT WITH ISRAEL.

4. WORD OF NORTHROP CONTRACT INEVITABLY WILL SPREAD THROUGH TRADE AND REACH PRESS. IN PRESENT ATMOSPHERE OF CONGRESSIONAL AND PUBLIC CONTROVERSY OVER ARMS SALES, AND IN VIEW OF SUBSTANTIVE OBJECTIONS BECAUSE OF RECENT LARG ACTIVITIES DESCRIBED IN PARA 3, IT COULD CREATE MASSIVE PROBLEM FOR US. PROBLEM FURTHER COMPLICATED BY INCLUSION IN CONTRACT OF ISRAEL BOYCOTT CLAUSE, WHICH, WHILE NOT ILLEGAL, IS CONTRARY TO OUR POLICY AND IS LIVE ISSUE BEFORE CONGRESS.

5. UNDER MUNITIONS CONTROL REGULATIONS, DEPARTMENT CAN DISAPPROVE RECENTLY SIGNED CONTRACT. IF DEPARTMENT DISAPPROVES CONTRACT, WE CAN EXPECT COMPLAINTS OF BAD FAITH FROM NORTHROP, FROM OTHER FIRMS WHICH ENTER NEGOTIATIONS RELYING ON OUR ASSURANCES SUCH AS THOSE CONTAINED IN DEPARTMENT LETTER DESCRIBED IN PARA 1, AND FROM MEMBERS OF CONGRESS WHOSE CONSTITUENTS ARE AFFECTED BY LOSS OF PROFITS AND JOBS. IN THIS REGARD, IN APPARENT RELIANCE UPON OUR JUNE LETTER, NORTHROP-PAGE HAS NOT INCLUDED ESCAPE CLAUSE IN CONTRACT IN EVENT OF USG DISAPPROVAL OF CONTRACT. THIS OMISSION COULD SUBJECT NORTHROP TO CONFIDENTIAL

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LIABILITY TO LARG FOR NONPERFORMANCE. HOWEVER, ON BASIS OVERRIDING NATIONAL INTEREST WE HAVE FIRM LEGAL BASIS FOR WITHHOLDING APPROVAL OF THIS CONTRACT AND CAN DEFEND DECISION ON BASIS OF CHANGED CIRCUMSTANCES SINCE PROPOSED CONTRACT ORIGINALLY APPROVED LAST JUNE.

6. RECOMMENDATION: THAT YOU AUTHORIZE US TO INFORM NORTHROP THAT AIR DEFENSE CONTRACT IS NOT APPROVED.

APPROVE....DISAPPROVE....

ALSO RECOMMEND WE TELL NORTHROP THAT CASE MIGHT BE RECONSIDERED LATER, BUT APPROVAL UNLIKELY UNLESS THERE IS

RADICAL CHANGE IN LARG POLICY ON MIDDLE EAST WHICH WE DO NOT ANTICIPATE IN FORESEEABLE FUTURE. (WITHHOLDING APPROVAL WILL PREVENT NORTHROP-PAGE FROM EXPORTING TECHNICAL DATA TO CARRY OUT CONTRACT. OF COURSE, IF CONTRACT APPROVAL IS WITHHELD, IMPLICATION WOULD BE CLEAR THAT EXPORT LICENSES FOR EQUIPMENT WILL NOT BE FORTH-COMING.)

APPROVE....DISAPPROVE....

CLEARED: L/PM-MICHEL AND PM-VEST.

THIS DISCUSSED WITH SISCO WHO FULLY CONCURS AND RECOMMENDS WE TURN DOWN CONTRACT. INGERSOLL

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